

Before the  
Federal Communications Commission  
Washington, D.C.

In the Matter of )  
 )  
Amendment of Section 73.202(b) )  
Table of Allotments )  
FM Broadcast Stations )  
(Halfway and Ozark, Missouri and )  
Diamond City, Arkansas )

MM Docket No. 93-186  
RM-8258  
RM-8343

**RECEIVED**

**OCT 08 1993**

To: Chief, Allocations Branch  
Mass Media Bureau

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**REPLY COMMENTS OF LAKE BROADCASTING**

Lake Broadcasting ("LB") hereby submits its reply comments in the above-captioned proceeding. These reply comments are submitted pursuant to a public notice released September 23, 1993 (RM-8343), accepting the Counterproposal of LB in MM Docket 93-186.<sup>1/</sup> LB hereby restates its Comment and Counterproposal to the Notice of Proposed Rule Making, DA 93-729 (released July 13, 1993) ("NPRM"). LB submits that the Commission should allot Channel 224A at Diamond City, Arkansas as that community's first local service. LB's Counterproposal better serves the public interest. Unlike the proposals described in the NPRM, LB proposes to allocate a first local service to Diamond City, Arkansas, without denying either Ozark or Halfway, Missouri a local service.

1. Ozark Mountain Broadcasting, Inc. ("OMB") and KYOO Broadcasting Company ("KBC"), the original petitioners in this

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<sup>1/</sup> The public notice stated that LB's Petition would be treated as a Counterproposal in MM Docket 93-186 and that Reply Comments to the Counterproposal should be submitted within fifteen days of the public notice.

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proceeding, filed reply comments which opposed LB's Counterproposal.<sup>2/</sup> OMB and KBC accused LB of abusing Commission procedures by filing the Counterproposal for extortionary purposes. This accusation is utterly false and is intended to cloud the fact that LB's proposal is a preferential arrangement of FM allocation.

2. KBC and OMB ignore the fact that, under the Commission's rules and policies, the proposed allocation of a first local service to Diamond City is a preferred distribution of spectrum than that proposed by OMB and KBC. OMB and KBC presumably hope that this plain fact will be lost amid pages of discussion about matters that are completely irrelevant to this rulemaking.<sup>3/</sup>

3. OMB and KBC state that LB's Counterproposal is an abuse of Commission processes because LB has no intention of building the proposed station in Diamond City, and, as such, the Counterproposal was submitted for the sole purpose of blocking

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<sup>2/</sup> LB was also served with the Reply Comments of Missouri Radio, Inc. ("MRI") which has submitted a Counterproposal to allocate Channel 256A at Humansville, Missouri (RM-8333). However, MRI's reply comments do not address the merits of LB's allocation proposal, and, therefore, will not be discussed in LB's reply comments.

<sup>3/</sup> In their reply comments OMB and KBC go on and on about the propriety of the referenced Time Brokerage Agreement for KGMF-FM. Specifically, their reply comments question whether the agreement was properly filed in the station's public file, as well as the accuracy of the KGMF-FM EEO report, etc. These points are completely and utterly irrelevant to the issue of whether the Commission should allocate Channel 224A to Diamond City. The principal criteria, that is the preferability of a first local service to that community, goes completely ignored. It is suggested that OMB and KBC take up their complaints with Aurora Broadcasting, Inc., the licensee of KGMF-FM.

OMB's and KBC's proposal as stated in the NPRM. OMB and KBC claim that LB's Counterproposal amounts to extortion in an alleged plan to force OMB to sell its station to John Borders. In this regard, OMB and KBC weave a tale about how John Borders, the proprietor of LB, solicited Mel Pulley, the principal of KBC, to try to convince Gary Lynch, the principal of OMB, to sell KZPF-FM to John Borders. It is Mr. Lynch's refusal to sell the station which, according to OMB and KBC, gave rise to LB's Counterproposal. As such, given the alleged motive, OMB and KBC claim that LB has no intention of constructing a new station in Diamond City if the Commission allocates the proposed first local service.

4. In fact, John Borders has never had an interest in acquiring OMB's station. There were never any discussions regarding this matter between John Borders and Mr. Pulley or Mr. Lynch. Moreover, because of his attributable interests in KGBX-FM in Nixa, Missouri and KGMV-FM in Aurora, Missouri, Mr. Borders could not acquire OMB's station, as it would violate the Commission's multiple ownership rules. See 47 C.F.R. §73.3555. Even if such an acquisition was permitted by the Commission's rules (which it is not), it would not make good business sense due to the already overcrowded nature of the Springfield radio market.<sup>4/</sup> For that reason, LB believes that developing a first

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<sup>4/</sup> Mr. Borders did have a brief discussion with Mr. Lynch about entering into a time brokerage arrangement with KZPF-FM if the existing Time Brokerage Agreement with KGMV-FM was ever terminated. However, there was no interest in acquiring KZPF-FM largely because, given the saturation of the Springfield radio market, it is doubtful that another station could be economically viable in that market. As to

local service in a city such as Diamond City makes good business sense (as well as providing better service to the community). In contrast, the OMB and KBC proposal would only increase service to the overburdened Springfield market.

5. If LB's proposal is granted, LB fully intends to apply for, and if a construction permit is granted, develop the Diamond City station. LB's proprietor, John Borders, has had extensive experience in small and underserved markets such as Diamond City. Mr. Borders has worked at stations in smaller markets and once owned a station in Norman, Oklahoma. By linking a new first local service in Diamond City to a network of small market stations in the area, LB hopes to provide enhanced service to the populations of these small communities. This complements the work Mr. Borders has already done with his station in Nixa, Missouri.

6. When one cuts through the pages and pages of baseless accusations contained in the OMB and KBC reply comments, it becomes crystal clear that they are completely irrelevant to the issue before the Commission. The end result is that the allocation of a first local service to Diamond City is a superior and preferred allocation of spectrum than that proposed in the NPRM. This is a fact that neither OMB nor KBC have denied nor

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whether Mr. Robert May ever independently expressed an interest in OMB's station, the matter should be taken up with Mr. May. However, Mr. May, who is the manager and vice president of Mr. Borders' two stations in Missouri, as well as the Secretary of My Country, Inc. (which programs KGMF-FM), would also be prohibited from owning OMB's station unless he resigned his current positions. Mr. May, who lives in Missouri, has nothing to do with either LB or the proposed first local service allocation to Diamond City.

can refute. In sum, LB respectfully submits that its Counterproposal is the best use of spectrum in this instance.

For the reasons stated above, the Commission must not adopt the proposal set forth in the NPRM. Rather the Commission must allocate Channel 224A at Diamond City, Arkansas. Adopting LB's Counterproposal will clearly serve the public interest.

Respectfully submitted,

LAKE BROADCASTING


By: John Bowles  
Its: Owner

5930 L.B.J.  
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Date: October 8, 1993

**VERIFICATION**

I, John Borders, certify that I have read the foregoing Reply Comments; that to the best of my knowledge, information and belief there is good grounds to support it; and that they are not interposed for delay.

  
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John Borders  
d/b/a Lake Broadcasting

Dated: October 8, 1993

CERTIFICATE OF SERVICE

I, John Borders, d/b/a Lake Broadcasting, do hereby certify that a true copy of the foregoing "REPLY COMMENTS OF LAKE BROADCASTING" was sent this 8th day of October, 1993, by first-class United States mail, postage prepaid, to the following:

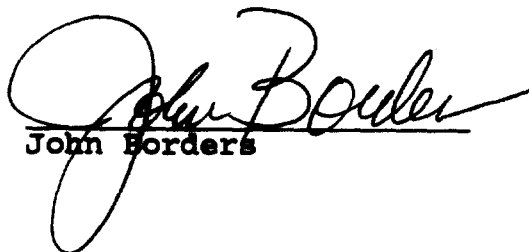
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John Borders